

ADMINISTRATIVE DIRECTIVE 1.75

Fraud, Waste, and Abuse Policy

Effective Date: August 1, 2005

Revision Date(s):

I. PURPOSE

The City of San Antonio's *Fraud, Waste and Abuse* policy and procedures are established to facilitate the development of internal controls that will provide for the prevention, detection, and reporting of *Fraud, waste, and abuse* directed against the City of San Antonio.

II. POLICY

This Administrative Directive is intended to eliminate any *Fraud, waste, and abuse* in the City of San Antonio's business practices and ensure compliance with the principles of professionalism which govern the conduct of all City employees. All City employees are required to comply with this directive.

III. DEFINITIONS

A. **Abuse** - refers to violations and circumventions of departmental or agency regulations which impair the effective and efficient execution of operations. Abuse includes the exploitation of "loopholes" to the limits of the law, primarily for personal advantage. One example is intentionally and unnecessarily scheduling meetings in another city in order to claim per diem.

B. **Fraud** - refers to any dishonest or fraudulent act or deliberate wrongful course of action that results in an economic advantage to which the recipient would not normally be entitled, including but not limited to acts of forgery or alteration of any document; misappropriation of funds, equipment, supplies, etc.; improper handling or reporting of money or financial transactions; profiting by self or others as a result of inside knowledge; conversion or use of City property for purposes not related to City business; destruction or intentional disappearance of records, furniture, fixtures or equipment; scripting or seeking anything of value from vendors or persons providing services or materials to the City for personal gain (in violation of the City's Code of Ethics).

Other examples of *Fraud*:

- Theft, misuse, or diversion of money, equipment and/or materials
- Workers' compensation *fraud*
- Utilization of position for personal reasons or to secure otherwise unavailable opportunity
- Failure to report damage or waste
- Failure to provide product or service
- Intentional misrepresentation of City's or public's interests
- Conversion, which can include the use of City equipment for non-City or personal business
- Payroll falsification (salaries or misrepresentation of payroll time)

Effective Date: August 1, 2004

Revised Date:

- C. **Good Faith Reporter** - reports that are truthful, regardless of motivation.
- D. **Reporter** - employee, citizen, contractor, vendor, or other interested party who observes or suspects dishonest or fraudulent activity.
- E. **Waste** - refers to the unnecessary incurring of costs as a result of inefficient practices, systems or methods; it means the expenditure or allocation of resources significantly in excess of need. An example would be the negligent or reckless ordering of supplies several times more than the amount required. Waste need not necessarily involve an element of private use or of personal gain, but it invariably signifies poor management.

IV. POLICY GUIDELINES

This Administrative Directive provides guidelines to develop adequate internal controls and ensure compliance with the principles of professionalism which govern the conduct of all City employees, vendors, consultants, contractors and other outside agencies/parties doing business with the City of San Antonio.

- A. All City Departments will create an environment in which employees and/or citizens are encouraged and comfortable in the reporting of fraud, waste, or abuse.
- B. All City Departments will promote awareness of the potential for fraud, waste and abuse throughout the City.
- C. No reporter shall suffer ill treatment as a result of making a report of misconduct.
- D. The City Manager shall create and oversee a Municipal Integrity Committee whose membership will consist of the City Manager or his/her designee, the City Attorney, the Human Resources Director, and the Police Chief (San Antonio Police Department) or his designee.
- E. The City Manager and/or staff of the Municipal Integrity Office may require the testimony of any City employee.
- F. The Municipal Integrity Office may administer oaths for sworn statements and may request the production of books, papers, and other evidence material in an investigation. Failure to comply may subject the employee to disciplinary action, up to and including termination.
- G. All information the Municipal Integrity Office receives will be treated as confidential, to the extent allowed by law, in accordance with this Administrative Directive.

V. RESPONSIBILITIES**A. Municipal Integrity Office:**

At the direction of the City Manager, the Municipal Integrity Office investigates suspected fraudulent activity as defined in Section III of this Administrative Directive. This does not preclude the investigation of misconduct by departments, law enforcement, the City Auditor's Office, or vendors hired under contract to perform such services.

1. The Municipal Integrity Office shall administer a formal process for reporting, investigating, and resolving cases of employee *fraud, waste, and abuse*.
2. The Municipal Integrity Office will assist in providing guidance and assistance to City departments and agencies that emphasize prevention, detection and correction of employee misconduct within their departments.
3. If a municipal integrity investigation substantiates that a fraudulent act has occurred, the Municipal Integrity Office will notify the Office of the City Manager and other City officials as appropriate.
4. If criminal conduct is suspected, the Municipal Integrity Office shall consult with the City Attorney and refer the matter to the appropriate law enforcement agencies (i.e. San Antonio Police Department). If requested, the Municipal Integrity Office shall assist in the investigation.
5. The Municipal Integrity Office shall accept and promptly investigate complaints of employee misconduct related to *fraud, waste, and abuse*, whether from a citizen or a City employee.
6. The Municipal Integrity Office shall maintain a *Fraud, Waste, and Abuse Hotline*, and attempt to secure as much information as possible from the reporting individual (See Section VI, Procedures, C. 2.).
7. The Municipal Integrity Office shall work with the department staff, the City Auditor's Office, state regulatory agency, or law enforcement authorities as deemed necessary during the course of the investigation, and refer findings to appropriate authorities as soon as possible to avoid additional fraudulent activity.
8. The Municipal Integrity Manager has the authority and duty after consulting with the City Manager and the City Attorney's office to limit an employee's access, and/or gain full access to all City premises, records, books, desks, vehicles, and computers, whether owned, leased, or rented. In addition, the Municipal Integrity Manager may examine, copy, and/or remove any or all portions of the contents of any documents, equipment, or materials in those instances where it is in the best interests of the investigation.

ADMINISTRATIVE DIRECTIVE 1.75

Fraud, Waste, and Abuse Policy

Effective Date: August 1, 1998

Revision Draft:

9. The Municipal Integrity Office shall receive and review reports or allegations of misconduct from any source.
10. The Municipal Integrity Office will create reports that will constitute the basis for a preliminary investigation which may involve the examination of records, surveillance, questioning witnesses, gathering evidence, etc.
11. The Municipal Integrity Office evaluates reported fraudulent conduct pertaining to any and all departments of the City, and such other activities/entities engaged in the expenditure of City funds.
12. The Municipal Integrity Office will report investigation findings to the City Manager as soon as possible.
13. The Municipal Integrity Office will provide the Municipal Integrity Committee with reports of all open and pending cases on a monthly basis.
14. The Municipal Integrity Office will provide an annual report to the City Manager regarding activities, cases investigated and outcomes on such items as may be prescribed by the City Manager or his/her designee.

B. Municipal Integrity Committee:

1. The Municipal Integrity Committee shall provide direction and guidance regarding the review and investigation of all cases after preliminary investigation and reporting by the Municipal Integrity Office.
2. The Municipal Integrity Committee shall establish rules and protocol for the Municipal Integrity Office.
3. The Municipal Integrity Committee may assign cases to other agencies for investigation as necessary.
4. The Municipal Integrity Committee shall meet at such times as directed by the City Manager or his/her designee, but in no event less than monthly. The City Manager or his/her designee shall chair the Municipal Integrity Committee.

C. Departments:

1. Department Directors will ensure their staff is in compliance with this Administrative Directive.
2. Managers/supervisors will refer any case related to fraud, waste, and abuse to their Department Director and/or to the Municipal Integrity Office.
3. Managers/supervisors will refer all inquiries from individuals (or their representatives) that are under investigation to the Municipal Integrity Office.

ADMINISTRATIVE DIRECTIVE 1.75

Fraud, Waste, and Abuse Policy

Effective Date: August 1, 2005

Revision Date/ID:

4. Managers/supervisors should not contact a suspected individual in an effort to determine facts or demand restitution.
5. Managers/supervisors should not discuss the case, facts, suspicions, or allegations with anyone else, whether within or outside the organization, that does not have a legitimate need to know, unless specifically asked to do so by the Municipal Integrity Office, the City Manager's Office or the City Attorney's Office.
6. Managers/supervisors shall cooperate with the investigation process through its completion, by answering questions, completing written statements, volunteering information important to the investigation, etc. Failure to do so may subject the employee to disciplinary action, up to and including termination.
7. Managers/supervisors may not counsel, reprimand, suspend or terminate the employment of, or otherwise discriminate against, a person who in good faith:
 - a. Reports *fraud, waste, or abuse* to:
 - the person's supervisor;
 - an administrator of the facility where the person is employed;
 - a state regulatory agency;
 - a law enforcement agency;
 - the City Auditor's Office;
 - the Office of Municipal Integrity; or
 - City Ethics Review Board
 - b. Initiates or cooperates with an investigation or proceeding by a proper authority in allegation of *fraud, waste, or abuse*.

D. Employees:

1. Every employee at every level in City government is encouraged to do *good faith* reporting of misconduct, either to the Municipal Integrity Office, to their chain of command, or both. All City employees are required to comply with this directive and have an affirmative duty to report fraudulent activity.
2. Employees are required to sign a statement acknowledging (Attachment A) they have received, read, and understood the City's *fraud, waste and abuse* policy and applicable regulations, and agree to comply with the provisions of such.
3. Employees should not contact a suspected individual in an effort to determine facts or demand restitution.
4. Employees should not discuss the case, facts, suspicions, or allegations with anyone else, whether within or outside the organization, that does not have a

ADMINISTRATIVE DIRECTIVE 1.75

Fraud, Waste, and Abuse Policy

Effective Date: August 1, 2004

Review Dates(s):

legitimate need to know, unless specifically asked to do so by the Municipal Integrity Office or the City Attorney's Office.

3. Employees shall cooperate with the investigation process through its completion, by answering questions, furnishing written statements, volunteering information important to the investigation, etc. Failure to do so may subject the employee to disciplinary action, up to and including termination.

E. Independent Auditor or Outside Attorney:

An independent auditor or outside attorney shall be appointed by the City Manager to investigate complaints alleged against a City employee who is a department director or higher position. An independent auditor or outside attorney shall have the same powers, duties, and authority granted to the Municipal Integrity Office.

VI. PROCEDURES

- A. Any employee, citizen, contractor, vendor, or other interested party who observes or suspects dishonest or fraudulent activity should notify the Municipal Integrity Office immediately. Persons observing or suspecting dishonest or fraudulent activity should not attempt to personally conduct an investigation related to such activity.
- B. A current or former City of San Antonio employee who suspects fraud, waste, or abuse and does not desire anonymity should:
 1. Report the suspected *fraud* by calling the Municipal Integrity Office at 207-7103. If requested, furnish a detailed written statement, under oath, outlining the suspected *fraud*.
 2. Cooperate with the investigation process by furnishing written statements, interviews, etc.
 3. Report suspected *fraud* in good faith.
- C. A current or former City of San Antonio employee who suspects fraud, waste, or abuse, and wishes to remain anonymous, should:
 1. Contact the *Fraud* Hotline (current number available on COUSAWEB) and provide as much detailed information as possible regarding the suspected fraudulent conduct.
 2. The caller, though anonymous, must be willing to share specific information regarding the suspected fraudulent conduct, which would form the basis of an effective investigation. By their nature, anonymous calls do not allow investigators to ask follow questions, so the initial information is of

Effective Date: August 1, 2006

Revision Desired:

prime importance. The more information that is provided when contacting the *Fraud Hotline*, the better an investigation can be conducted. Information that would be helpful when reporting includes:

- Circumstances of the incident and how inappropriate action took place
- Names of persons involved, including department and division
- Date(s), time(s) and location(s) the event(s) took place
- Identify available evidence or documentation
- Names of any credible witnesses
- If involving funds, identify source(s) of funds and how much
- Any other information that may be helpful in an investigation.

- D. A member of the public suspecting fraud, waste, or abuse is encouraged to contact the Municipal Integrity Office directly or the *Fraud Hotline* with specific detailed information regarding the suspected fraudulent conduct.
- E. Prior to the conclusion of a case, the investigation will be brought to the Municipal Integrity Committee for review and direction before any final action is taken.

VII. DISCIPLINARY ACTION

- A. Failure to comply with this Administrative Directive may subject the employee to disciplinary action, up to and including termination.
- B. Reports that are intentionally made in bad faith could be the subject of individual discipline, up to and including termination.
- C. If an investigation reveals evidence of knowledge of fraudulent activity that was not disclosed by an employee, the employee may be subject to disciplinary action, up to and including termination.
- D. Ill treatment suffered by any reporter could itself be the basis of an investigation, and could be deemed retaliation. A finding of retaliation may subject the retaliating party to individual discipline, up to and including termination.
- E. Managers/supervisors shall consult with the departmental Human Resources Consultant or Human Resources Department prior to the assessment of any disciplinary action.

Nothing in this Administrative Directive shall be construed to interfere with, limit, restrict, or otherwise impair the City Manager or any other appointed official's ability to manage, train, assign, or discipline their employees.

ADMINISTRATIVE DIRECTIVE 1.75

Fraud, Waste, and Abuse Policy

Effective Date: August 1, 2001
Revision History:

This directive supersedes all previous correspondence on this subject. Information and/or clarification may be obtained by contacting the Municipal Integrity Office.

Approved by:


Sherry Sander
City Manager

7-31-06
Date

CITY OF SAN ANTONIO

EMPLOYEE ACKNOWLEDGMENT FORM FOR

ADMINISTRATIVE DIRECTIVE 1.75

Fraud, Waste, and Abuse

Effective August 1, 2000

I acknowledge that on _____, 200_____, I received a copy of Administrative Directive 1.75 Fraud, Waste, and Abuse and was given an opportunity to ask questions.

Employee's Name (Print)

Department

Employee's Signature

SAP Employee ID Number

Certification by:

I certify that on _____, 200_____, I provided a copy of this administrative directive to the above named employee. I explained this policy and gave this individual the opportunity to ask questions.

Supervisor/Trainer Name (Print)

Supervisor/Trainer Signature